

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

TED KNOX,

Plaintiff,

vs.

WARDEN BUTLER, et al.,

Defendants.

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Case No. 17-CV-494-SMY-RJD

MEMORANDUM AND ORDER

This matter is before the Court on Defendants Dr. John Trost and Wexford Health Sources, Inc.’s unopposed Motion to Set Aside Default (Doc. 27). For the following reasons, the Motion is **GRANTED**.

Plaintiff originally filed this case on May 10, 2017 (Doc. 1), and filed an Amended Complaint adding claims and parties on May 24, 2017 (Doc. 7). Prior to screening the Amended Complaint under 28 U.S.C. §1915A, this Court severed some of Plaintiff’s claims, creating three additional cases (Doc. 9). Defendants Wexford Health Sources, Inc. (“Wexford”) and Trost were each named as remaining parties to the surviving claims in this case. (Id.). Trost and Wexford each executed Waivers of Service that set September 5, 2017 as the deadline for filing a responsive pleading (Docs. 16 and 20). When these defendants failed to file responsive pleadings by that date, Plaintiff filed a Motion for Entry of Default (Doc. 24) which was granted (Doc. 25). Trost and Wexford filed the instant Motion to Set Aside Default less than two weeks later (Doc. 27).

According to Trost and Wexford, the Waivers of Service in this case were “comingled by staff members at Wexford Health Sources with Waivers of Service executed by the Wexford

defendants in Cause No. 17-cv-574, and were, mistakenly, all thought to be related to Cause No. 17-cv-574.” (Doc. 27 at ¶ 8). As a result, Counsel only entered their appearance in and filed responsive pleadings in the 17-cv-574 severed case.¹ Only upon receiving notice of the Entry of Default did Trost and Wexford become aware of this issue.

Under Federal Rule of Civil Procedure 55(c), the Court has the discretion to set aside an Entry of Default for “good cause shown.” Here, neither nor the other defendants have filed any objection to setting aside the Entry of Default for Trost and Wexford. Moreover, the Court finds that under the circumstances, Trost and Wexford have shown good cause for their failure to file a timely responsive pleading; which they sought to correct as soon as practicable.

Accordingly, the Motion to Set Aside Default (Doc. 27) is **GRANTED**. Pursuant to 42 U.S.C. § 1997e(g)(2), Defendants Trost and Wexford are hereby **ORDERED** to file an answer or other responsive pleading within 14 days of this Order.

IT IS SO ORDERED.

DATED: May 8, 2018

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge

¹ Counsel for Trost and Wexford in this case also represent Wexford in the 17-cv-574 case. Dr. Trost has different counsel in the severed case to which he remains a party (17-cv-572).